

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Scott Lundberg,

Court File No.

Plaintiff,

vs.

**NOTICE OF REMOVAL  
AND DEMAND FOR JURY TRIAL**

Sid Harvey Industries, Inc. (a New York  
Corporation),

Defendant.

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**TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
MINNESOTA**

Pursuant to 28 U.S.C. § 1441 and 1446, Defendant Sid Harvey Industries, Inc., (“Defendant”) hereby gives notice of removal of the above-captioned action currently pending in the St. Louis County District Court, State of Minnesota, to the United States District Court for the District of Minnesota. In support of its Notice of Removal, Defendant states as follows:

1. On or about July 12, 2019, Plaintiff Scott Lundberg (“Plaintiff”) commenced a civil action against Defendant in the St. Louis County District Court in the State of Minnesota, by service pursuant to Minn. R. Civ. P. 3.01. A true and correct copy of the Summons and Complaint is attached as Exhibit A.

2. Plaintiff alleges in Count I of his Complaint that Defendant violated certain provisions of the Federal Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201-219. Plaintiff further alleges in Count II that Defendant violated the Minnesota Fair Labor Standards Act, Minn. Stat. § 177.27, in Count III that Defendant breached a contract, and in Count IV that Defendant violated Minn. Stat. § 181.13. (Exhibit A.)

3. ***Federal Question Jurisdiction Basis for Removal:*** Because this case presents a federal question for adjudication, the above-entitled action may be removed to this Court by

Defendant pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

4. ***Diversity Jurisdiction Basis for Removal:*** This case is also a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332 and is one that Defendant may remove to this Court under 28 U.S.C. §§ 1441 and 1446 because Plaintiff is diverse in citizenship from Defendant and the amount in controversy exceeds the sum of \$75,000, exclusive of interests and costs.

5. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over Plaintiff's state law claims, which are part of the same case or controversy as Plaintiff's FLSA claim.

6. ***Citizenship of Parties:*** Plaintiff is the sole plaintiff identified in this action. Upon information and belief, at the time of the commencement of this action and continuing to the present, Plaintiff was a citizen and resident of the State of Minnesota. (Exhibit A at ¶ 1.)

7. Defendant is the sole defendant identified in this action. Under 28 U.S.C. § 1332(c)(1), Defendant is deemed to be a citizen of the state by which it was formed and the state where its principal place of business is located. At the time of commencement of this action and continuing to the present, Defendant was formed under the laws of the State of New York, with its principal place of business in the State of New York. Plaintiff is therefore diverse in citizenship from Defendant so as to vest removal jurisdiction in this Court.

8. ***Amount in Controversy:*** This is a civil action wherein the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000. Plaintiff expressly alleges that he has incurred damages for lost wages and benefits, front pay, liquidated damages, and attorney fees.

9. Considering Plaintiff's monetary claims, this is the type of case wherein the damages sought may reasonably exceed \$75,000.00, such that Defendant may remove this action notwithstanding Plaintiff's failure to precisely state an amount of damages exceeding the requisite

amount in controversy. *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir. 2002); *Capitol Indem. Corp. v. Miles*, 978 F.2d 437, 438 (8th Cir. 1992).

10. This Court is the United States District Court for the district and division embracing the place where this action is currently pending, as required by 28 U.S.C. § 1441(a).

11. ***Timing of Removal:*** Fewer than thirty (30) days have elapsed since July 12, 2019, when Plaintiff first served Defendant with the Complaint. *See* 28 U.S.C. § 1446(b).

12. Simultaneous with the filing of this Notice of Removal, Defendant has notified the St. Louis County District Court in the State of Minnesota of removal of this action. No other process, pleadings, or orders have been served or filed in this action.

13. True and correct copies of the Notice of Removal, with accompanying Exhibit, and the Notice of Filing of Notice of Removal directed to State Court will be served upon Plaintiff's counsel and filed with the Court Administrator of the St. Louis County District Court in the State of Minnesota on this date, in accordance with the provisions of 28 U.S.C. § 1446(d).

14. Pursuant to Fed. R. Civ. P. 38(b) and Local Rule 38.1, Defendant hereby demands a jury trial.

WHEREFORE, Defendant respectfully requests that this action, now pending in the District Court for the County of St. Louis, Minnesota, be removed to the United States District Court for the District of Minnesota.

Date: August 5, 2019

*s/Kerry L. Middleton*

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